***THE HONOURABLE SRI JUSTICE P.S.NARAYANA**

+WRIT PETITION No.3700 of 2007

% 10-9-2007

Mohd. Ghouse Pasha.

...

Petitioner

VS.

$ The Regional Passport Officer,
Ministry of External Affairs,
Government of India,
Kummariguda, Secunderabad. ...Respondent

! COUNSEL FOR THE PETITIONER: Sri C.DAMODAR REDDY

^ COUNSEL FOR THE RESPONDENT: SRI A.RAJASEKHARA REDDY,
STANDING COUNSEL FOR
CENTRAL GOVERNMENT

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> Head Note:

? CITATIONS:

1. 2005 (1) ALT 95
2. 2005 (1) ALT 751

HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.3700 of 2007

Date: September 10, 2007

Between:
Mohd. Ghouse Pasha. …
Petitioner

And

The Regional Passport Officer,
Ministry of External Affairs,
Government of India, Kummariguda,
Secunderabad. …
Respondent

* * *

ORDER:

This Court issued *rule nisi* on 26.2.2007. Heard Smt.Surekha, representing Sri C.Damodar Reddy, counsel for the petitioner.

2. The writ petition is filed for a writ of *Mandamus* declaring action of the respondent in insisting court orders for correction of petitioner's date of birth in the passport as 26.5.1985 instead of 26.6.1987, as contrary to the guidelines issued by the Government of India, arbitrary, illegal and unconstitutional and consequently direct the respondent to issue fresh passport by correcting the date of birth of the petitioner as 26.5.1985 instead of 26.6.1987 in passport bearing No.F 9404583 and pass such other suitable orders.

3. It is stated that the petitioner is the resident of H.No.9-4-86, Charbouli, Warangal, Warangal District and he studied upto X class in Dutton's Kindergarten and High School, Warangal, from the year 1991 to 2002. It is also stated that his date of birth is 26.5.1985 and the same was reflected in his school records. It is stated that last year the petitioner applied for passport through an agent who obtained his signatures on an unfilled application form, completed all formalities and on

submission of the application, the respondent had issued passport bearing No.F9404583 on 28.7.2006 for a period of 10 years. It is also stated that after receiving original passport, the petitioner noticed his date of birth in the said passport as 26.6.1987 and immediately the petitioner approached the agent to process his application and the said agent informed him that the said mistake might have crept in by oversight while filling the application form. It is also stated that the petitioner applied for correction of his date of birth in the passport as per the date of birth of his school record by enclosing transfer certificate and study certificate issued by the school authorities, but the office of the respondent, instead of considering his oral representation as per the guidelines issued by the Government of India, insisting the petitioner to furnish court orders for correction of date of birth in the passport. It is also stated that the Government of India, Ministry of External Affairs had issued a Circular dated 18.4.2001 giving instructions/clarifications providing power to make corrections/mistakes in the passport without any declaratory order. It is also stated that considering the said instructions, this Court and the High Court of Bombay directed the passport officers to correct the mistakes in the passports. Hence, this writ petition.

4. I n **Mohd. Nasrullah Khan** V. **Regional Passport Officer, Hyderabad**[1] it was held thus:

> "In Ali Imran V. Regional Passport Officer, Secunderabad, I have considered the Circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.
>
> (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory

order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported

and squarely falls in Clause (a) of the Circular dt. 18.4.2001."

5. In **Durgempudi Venkata Raghava** V. **Passport Officer**, **Ministry of External Affairs**, **Passport Office**, **Hyderabad**[2] it was held as hereunder.

> "Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No.8533 of 2004 was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the observations made in the said judgment.
>
> It is no doubt true that the present Writ Petition was filed in the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18.4.2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona *fide* mistake, which had crept in.
>
> Apart from this aspect of the matter, no counter-affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.S.C. certificate, Intermediate certificate and also Degree certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.
>
> The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.
>
> In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18.4.2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the

application form but a *bona fide* mistake had crept in, the Writ Petition is disposed of with the following directions."

6. In the light of the facts and circumstances, the Circular referred to supra and also the decisions specified above, this Court is of the considered opinion that the writ petition be disposed of directing the respondent to receive application of the petitioner for correction of his date of birth as 26.5.1985 instead of 26.6.1987 as noted in passport bearing No.F 9404583 and dispose of the same in accordance with law within a period of four weeks in the light of the Circular referred to supra and also the decisions specified above.

7. The writ petition is disposed of accordingly. No order as to costs.

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(P.S.NARAYANA, J.)

Date: September 10, 2007.

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[1] 2005(1) ALT 95

[2] 2005 (1) ALT 751